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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

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* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see S/UCS/SER.A/42).

Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations on 18 December 2017, in addition to information provided by the Government of Argentina and that available in public sources. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

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I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, which has been on the United Nations list of Non-Self-Governing Territories since 1946, following the transmission by the United Kingdom of the information under Article 73 *e* of the Charter of the United Nations in accordance with General Assembly resolution 66 (I). At the 25th meeting of the Special Political and Decolonization Committee (Fourth Committee), held on 6 December 1946, at the first session of the General Assembly, the delegation of Argentina expressed a reservation to the effect that the Government of Argentina did not recognize British sovereignty in the Falkland Islands (Malvinas). The delegation of the United Kingdom expressed a parallel reservation that it did not recognize Argentine sovereignty in those islands.

2. The Falkland Islands (Malvinas) comprises two large islands, known as East and West Falkland, and hundreds of smaller islands, with a total area of about 12,173 km^2, situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia Islands, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia Islands, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands currently acts concurrently as the Commissioner for South Georgia and the South Sandwich Islands. According to the administering Power, the population of the Falkland Islands (Malvinas) is more than 2,500 (not including residents temporarily absent and civilians working in conjunction with a Ministry of Defence garrison of approximately 1,200 troops from the United Kingdom), the largest population recorded since 1931. The 2016 census indicated that the total resident population was approximately 3,400 people, showing an increase from 2012, when the last census had been conducted. A dispute exists between the Government of Argentina and that of the United Kingdom concerning sovereignty over the Falkland Islands (Malvinas), as established by the General Assembly in its resolution 2065 (XX) and subsequent relevant resolutions on the question of the Falkland Islands (Malvinas).

II. Constitutional and political issues

3. The Constitution approved in 2008, which came into force on 1 January 2009 (Statutory Instrument 2008, No. 2846), has been protested by Argentina (see A/63/542, annex I). Under the Constitution, members of the legislature elect a speaker to preside over sessions of the Legislative Assembly. A chief executive is appointed by the Governor in agreement with the Executive Council to serve as head of the public service to implement policy. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Assembly who are elected annually from their own numbers, in addition to two ex officio members, the Chief Executive and the Financial Secretary, who have no voting rights. The Attorney General and the Commander of British Forces on the Islands have the right to attend meetings of the Executive Council but not to vote. The Governor, who is appointed by the United Kingdom, has ultimate responsibility for matters including external affairs, defence, internal security (including the police) and the administration of justice. Under the terms of the Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good governance of the Territory, while full power to make such laws is reserved for the British Crown. In addition, the British Parliament has unlimited power to make laws for all its overseas territories.

4. A general election for members of the Legislative Assembly was held on 9 November 2017. Of the eight members elected for a four-year term in that election, five represent the Territory's urban constituency (Stanley), where the majority of the population lives, and three represent the constituency outside the Territory's only town (Camp). There are no political parties and, therefore, all members are elected as independents. Governor Nigel Phillips assumed office in September 2017. The next general election for members of the Legislative Assembly is expected to be held in 2022.

5. During 2017, Argentina and the United Kingdom continued to reiterate their respective positions regarding sovereignty over the Territory (see sections X and XI).

III. Budget

6. The Territory's financial year extends from 1 July to 30 June. According to the administering Power, the 2016/17 operating budget amounted to approximately £63 million. The Territory makes every effort to maintain a balanced budget strategy.

IV. Economic conditions

A. General

7. According to the report on the 2016 census of the Territory, in 2016, the average household income was calculated to be £43,600, with a median of £37,500, an increase of 15 per cent compared with 2012; the unemployment rate was 1 per cent, as had been the case in 2012, while one in five people who work have two or more jobs.

B. Fisheries and agriculture

8. The species of squid in the genera *Loligo*, or *Doryteuthis*, and *Illex* are the mainstay of the fisheries and the economy of the Falkland Islands (Malvinas). It was reported that the total catch of squid in 2017 was approximately 67,000 tons. The Fisheries Department is responsible for administering the fishing sector in the Territory. According to the administering Power, as the largest contributor to gross domestic product (GDP), it accounted for 39 per cent of total GDP in 2015, and significant resources are invested to ensure that fish stock is harvested on a sustainable basis.

9. The United Kingdom maintained its position that the Islanders were entitled to explore for and exploit their natural resources for their own economic benefit, as an integral part of their right to self-determination. Throughout 2017, the United Kingdom reiterated the need for the Government of Argentina to meet those commitments made in the joint communiqué of 13 September 2016, in which it had been agreed that appropriate measures would be taken to remove all obstacles limiting the economic growth and sustainable development of the Falkland Islands (Malvinas), including in trade, fishing, shipping and hydrocarbons.

10. Argentina has denounced the unilateral exploitation of natural resources by the United Kingdom and reiterated its position that both parties should refrain from introducing unilateral modifications in the situation while the Islands were going through the process recommended by the General Assembly, in accordance with General Assembly resolution 31/49 of 1 December 1976 (for consideration by intergovernmental organizations and forums on the topic, see para. 39 below). The

Government of Argentina was of the view that, as stated in its press release of 16 September 2016, the joint communiqué reflected "the political intent of the parties to re-establish a dialogue on all matters relating to the South Atlantic, without exclusions, under the sovereignty umbrella formula", and that progress in each issue mentioned in the joint communiqué would require further negotiations.

11. With regard to agriculture, the acidic and infertile soils of the Falkland Islands (Malvinas), coupled with a windy and cool oceanic climate, naturally limit the cultivation of fields and focus the agriculture sector on rearing animals. The Department of Agriculture is responsible for administering the sector. A part of vegetables consumed in the Islands is produced locally but most other agricultural and food products are imported. The Territory has an ongoing five-year business plan in support of agriculture.

C. Tourism

12. Tourism is a significant contributor to the Territory's economy. Total tourist expenditure in 2016 was £5.6 million. A new tourism development strategy for the Territory for the period 2016–2023 is in place. In 2016, land-based tourism generated 5,242 visitors (a decrease of 27.1 per cent from 7,189 in 2015), and cruise passengers accounted for 55,633 visitors in 2016/17, a slight decline from 58,476 in 2015/16.

D. Transport, communications and utilities

13. The Territory has approximately 1,000 km of roads. In addition, a coastal shipping service, a regular ferry service and local air services continued to ensure links between settlements on the eastern, western and outlying islands.

14. In 2017, regular weekly service between Punta Arenas, Chile, and the Falkland Islands (Malvinas) continued to be available, including two monthly stopovers in Río Gallegos, mainland Argentina, in accordance with the provisions of the joint statement of 14 July 1999 between Argentina and the United Kingdom. Under the exchange of notes of February 2001 referring to the understanding on private flights and navigation, private flights are authorized, as are a number of medical evacuation flights from the Falkland Islands (Malvinas) to mainland Argentina, Chile and Uruguay. In accordance with the principles set out in the joint statement and exchange of letters of 14 July 1999, in February 2018, both sides jointly requested the assistance of the Governments of Brazil, Chile, Paraguay and Uruguay to identify eligible airlines capable of establishing new weekly scheduled air service to the Falkland Islands (Malvinas), including two additional stopovers per month in mainland Argentina, one in each direction.

15. In February 2010, in response to hydrocarbon-related activities carried out in waters around the Falkland Islands (Malvinas), Argentina issued Presidential Decree 256/2010 requiring authorization measures for vessels calling at Argentine ports or crossing Argentine waters. In that connection, members of the Southern Common Market (MERCOSUR) and the Union of South American Nations (UNASUR) had previously decided to close their ports to "vessels flying the illegal flag of the Malvinas Islands". In 2017, implementation of those decisions continued.

16. For its part, during 2017, the United Kingdom continued to consider the aforementioned Presidential Decree 256/2010 non-compliant with international law, including the United Nations Convention on the Law of the Sea, and to contend that, under international law, the Islanders had the right to develop their economy, including natural resources, for the Territory's benefit. The United Kingdom

continued to emphasize the principle and the right of the Falkland Islanders to self-determination as enshrined in the Charter of the United Nations and in article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development (see also para. 9 above).

17. With regard to telecommunications, according to the administering Power, broadband Internet service was available to 100 per cent of households both in Stanley and in Camp. With respect to utilities, a major wind farm meets approximately 30 per cent of the urban electricity needs. Wind turbines are used in homesteads and small settlements.

E. Environment and hydrocarbons

18. According to the administering Power, the Territory works to uphold a number of environmental treaties and conventions. For its part, Argentina has rejected the territorial application of those treaties and conventions by the United Kingdom on the grounds that the Territory and the surrounding maritime areas are an integral part of Argentina.

19. During 2017, offshore exploration for hydrocarbons continued amid protests from Argentina, other Member States and regional and intergovernmental organizations. In addition, Member States and associate States of MERCOSUR continued to exchange available information concerning any vessels or marine structures travelling to "the Malvinas Islands, South Georgia Islands and South Sandwich Islands with cargo to be used for illegal hydrocarbon and/or mining activities on the Argentine continental shelf".

20. Since 2013, the energy authorities of Argentina have carried out administrative proceedings against companies developing unauthorized hydrocarbon exploration activities in the area. Argentina sent advisory letters to companies directly or indirectly involved in those activities (see also para. 39 below).

21. In 2017, the United Kingdom continued to make clear to Argentina its position that, under international law, the continental shelf did not form part of Argentina; supported the right of the Islanders to develop their natural resources for their own economic benefit as an integral part of their right of self-determination; and rejected the applicability of the domestic legislation of Argentina to those companies engaged in the Islands' hydrocarbon activities. In the view of the United Kingdom, the politically motivated decision by the previous Administration of the Government of Argentina to target the assets and criminalize the activities of individuals working for international companies involved in the hydrocarbon sector in the area was a wholly unacceptable attempt to exercise extraterritorial jurisdiction and had no legal justification. Furthermore, the United Kingdom considered that it had dangerous implications for global business and the principles of free trade. The United Kingdom considered that the above-mentioned advisory letters to companies were in conflict with the joint communiqué of 13 September 2016 (see also para. 9 above). Furthermore, the United Kingdom continued to reject the claim by the Government of Argentina that management of renewable and non-renewable resources of the Falkland Islands constituted unilateral action.

22. For its part, Argentina reaffirmed its right to take legal action against the carrying out of unilateral activities in the disputed area, in particular those related to the exploration and exploitation of renewable and non-renewable natural resources, which are contrary to General Assembly resolution 31/49, as recognized by several international forums, such as the Latin American Energy Organization (OLADE) (see

also para. 39 below). Argentina regretted that, despite the joint communiqué of 13 September 2016, the United Kingdom continued to engage in unilateral activities related to the exploration and exploitation of renewable and non-renewable natural resources in the area under dispute.

23. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, held in London on 28 and 29 November 2017, the Government of the United Kingdom and the overseas territories committed themselves to continuing the practice of mutual engagement ahead of international forums on climate change, to ensure that the views and priorities of the overseas territories were fully reflected in negotiations. It was agreed that a representative from the territories would attend the twenty-fourth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Katowice, Poland, from 3 to 14 December 2018, as part of the delegation of the United Kingdom, highlighting the value of their presence in helping amplify the shared message on the need for a high degree of ambition on climate change-related targets. The United Kingdom reiterated its commitment to working with the overseas territories on the issue of extending the application of treaties concerning climate change to the territories, including taking forward the work to extend its ratification of the Doha Amendment of the Kyoto Protocol to those territories that had indicated their readiness for it, through initial consultation with territories that had an interest in participating in meetings concerning the Paris Agreement to be held in the first half of 2018. The importance of work in the territories on climate change adaptation and mitigation and collaboration between the territories to share best practice on environmental management and climate change issue, including through the annual meetings of ministers of the environment of the territories, was emphasized.

V. Social conditions

A. General

24. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms and other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, have been extended to the Falkland Islands (Malvinas) by the administering Power. The right of individual petition to the European Court of Human Rights also has been extended to the Territory. In addition, the Territory legalized same-sex marriage in April 2017, following a public consultation which found high levels of support for same-sex marriage from among the community.

25. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the United Kingdom and the leaders of the overseas territories discussed their shared resolve to continue to promote respect for human rights and compliance with international obligations in the territories and welcomed the constructive engagement of the territories in the preparations for the universal periodic review process of the Human Rights Council in that regard. The leaders of the overseas territories also reaffirmed their commitment to ensuring the highest possible standards for the protection of children and the promotion of children's welfare in the territories. At the meeting, the United Kingdom and the overseas territories discussed progress made in promoting interagency cooperation in the territories and the development of national response plans to define policy priorities. In addition, they welcomed progress made under a memorandum of understanding to

promote more effective collaboration between the overseas territories for the safeguarding of children.

26. For its part, Argentina has consistently rejected the territorial application by the United Kingdom of the various international instruments mentioned above, in addition to the designation of the Territory as an overseas territory of the United Kingdom or any other similar designation.

B. Public health

27. According to information transmitted by the administering Power, medical and dental treatment is provided free of charge to all residents under a health agreement. There is one hospital in the Territory, which offers modern facilities with medical, dental and nursing staff, but no resident qualified optician. More complex treatments require medical evacuation.

C. Social security and welfare

28. According to the administering Power, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and employees between the ages of 17 and 64. A system of social welfare grants and pensions is in place to address cases of hardship and disability.

D. Education

29. Education in the Territory is free and compulsory for all children between the ages of 5 and 16, with access to preschool (nursery) education from the age of 4. According to the administering Power, post-secondary education, including university education, which is not available in the Territory, is funded by the Government of the Falkland Islands (Malvinas). In 2017, 481 schoolchildren were registered, 25 of whom were based in rural areas. There is a 100 per cent enrolment rate for all children of school age in the Islands, and the current teacher to student ratios for primary school and secondary school are 1:15.5 and 1:8.5, respectively.

30. According to information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equal access to the public education system of Argentina. Additional information on the subject is contained in the most recent report of the Secretary-General on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (A/73/73, sect. II.B).

VI. Mine clearance and related matters

31. Under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention), States parties are obliged to clear anti-personnel mines in mined areas within 10 years of the Convention's entry into force, unless an extension is granted under the Convention.

32. In November 2008, the Ninth Meeting of States Parties to the Ottawa Convention granted the United Kingdom an extension until 1 March 2019. According to the administering Power, four phases of demining have been implemented between 2009 and 2016, during which a total of 35 mined areas were cleared. A new phase commenced in October 2016, during which at least 46 mined areas were scheduled to be cleared and a technical survey was expected to be conducted on an additional

27 mined areas. According to the administering Power, as at 25 November 2017, in that phase of demining, over 3,600,000 m^2 of land had been cleared and over 2,500 mines destroyed.

33. Argentina recalled its interpretative declaration at its ratification of the Ottawa Convention in 1999, in which it stated that as the Islands, part of its territory, were under illegal occupation by the United Kingdom, Argentina was effectively prevented from having access to the anti-personnel mines placed on the Islands in order to fulfil the obligations undertaken under the Convention. As previously reported, in December 2009, the second Review Conference of the Ottawa Convention granted the request of Argentina for an extension until 1 January 2020. At the Sixteenth Meeting of States Parties to the Ottawa Convention, held in Vienna from 18 to 21 December 2017, Argentina stated that it was prevented from having access to the anti-personnel mines on the Islands, which was the only part of the territory of Argentina affected by anti-personnel mines.

VII. Bilateral developments

34. Following the joint communiqué of Argentina and the United Kingdom of 13 September 2016 and the subsequent agreement between the two Governments, the field operations of the International Committee of the Red Cross (ICRC) took place in the Falkland Islands (Malvinas) for the identification of the unidentified Argentine soldiers buried in Darwin Cemetery, during the third quarter of 2017, and they concluded in August 2017. On 1 December 2017, ICRC submitted to the Governments of Argentina and the United Kingdom 121 reports identifying 88 soldiers and containing the results of the DNA analysis undertaken. The Governments of Argentina and the United Kingdom welcomed the submission of the reports. The Government of Argentina indicated that as at January 2018, the reports were being shared with those families that had requested the identification. Both Governments agreed that the wishes of the families concerned were paramount. It is expected that members of the families of the identified soldiers will visit Darwin Cemetery in 2018.

VIII. Participation in international organizations and arrangements

35. According to information provided by the administering Power, the Government of the Falkland Islands (Malvinas) attends various Commonwealth forums and is a member of the United Kingdom Overseas Territories Association, the Association of the Overseas Countries and Territories of the European Union and the South Atlantic Territories Cooperation Forum. Furthermore, its representatives also participate, as members of the delegation of the United Kingdom, in other international meetings concerning matters affecting the Islanders' interests, to reflect their own views. It is the position of the Government of the United Kingdom that the Islanders should be able to attend all meetings affecting their interests in their own right.

36. Argentina is not a member of the aforementioned organizations. In accordance with the relevant resolutions of the United Nations in which the existence of a sovereignty dispute between Argentina and the United Kingdom is recognized, Argentina reaffirmed the bilateral nature of the question of the Falkland Islands (Malvinas) and consequently rejected any attempt to enable participation of the Islanders on their own.

IX. Consideration by intergovernmental organizations and forums

37. The question of the Falkland Islands (Malvinas) was addressed during a number of meetings held in since June 2017 by regional and multilateral forums, such as the Organization of American States (OAS) (Cancún, 21 June 2017), MERCOSUR (Mendoza, 21 July; and Brasilia, 21 December 2017), the Group of 77 and China (New York, 27 September 2017 (see A/72/511, annex)) and OLADE (Buenos Aires, 7 December 2017).

38. In the decisions taken following the above-mentioned meetings by the Group of 77 and China, OAS and OLADE, the need for Argentina and the United Kingdom to resume negotiations to find a peaceful solution to the sovereignty dispute was reaffirmed. In addition, OLADE and MERCOSUR, in decisions taken at the above-mentioned meetings, expressed their support for the legitimate rights of Argentina over the Falkland Islands (Malvinas), South Georgia Islands, South Sandwich Islands and the surrounding maritime areas. Furthermore, MERCOSUR in its statement dated 21 July 2017, underscored the commitment to dialogue and the permanent disposition of the Government of Argentina to identifying areas for joint action with the United Kingdom, with a view to creating a climate conducive to the resumption of sovereignty negotiations.

39. The Group of 77 and China, in its declaration adopted at the above-mentioned meeting, recalled the importance of not adopting unilateral actions in the areas under sovereignty dispute between Argentina and the United Kingdom. MERCOSUR, in its statement dated 21 July 2017, reiterated its rejection to the development of unilateral actions in the area under dispute which were incompatible with the relevant resolutions of the United Nations. OLADE, in its decision taken at the above-mentioned meeting, recalled the mandate of the Unity Summit of Heads of State and Government of Latin America and the Caribbean of Riviera Maya, Mexico, with respect to the importance of the provisions of General Assembly resolution 31/49, in relation to the exploration and exploitation of hydrocarbons in the areas and called upon both parties to refrain from adopting decisions that entailed the introduction of unilateral modification into the situation for as long as the Islands were subject to the process recommended by the United Nations in the applicable resolutions, while recognizing the right of Argentina to defend, safeguard and use the hydrocarbon natural resources on its continental shelf in the manner it deemed most convenient, as well as to adopt any necessary measures with full respect for international law.

40. The United Kingdom is not a member of the aforementioned organizations and has not been represented at any of the aforementioned meetings, with the exception of that of OAS, where it has observer status. The United Kingdom maintained its position that it rejected any suggestion that hydrocarbon exploration amounted to unilateral action on its part and was being carried out in contravention of General Assembly resolution 31/49, supported the Islanders in developing their own economy and future, including their decision to exploit their natural resources, and further rejected any suggestion that military assets in the South Atlantic were subject to reinforcement or that it was allegedly militarizing the region. Furthermore, in the view of the Government of the United Kingdom, none of the aforementioned regional statements or decisions fully reflected the principle or the right of self-determination enshrined in the Charter of the United Nations and in article 1 of the two Covenants on human rights or the modern relationship between the United Kingdom and its overseas territories. The United Kingdom maintained that regional statements by members of OAS and others, as well as resolutions of the General Assembly, do not modify or dilute the obligation of nations to respect the Islanders' right to self-determination.

X. Future status of the Territory

A. Position of the administering Power

41. The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, nor about the principle and the right of the Falkland Islanders to self-determination, as enshrined in the Charter of the United Nations and in article 1 of the two Covenants on human rights, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

42. In a message to the Islanders broadcast on 22 December 2017, the Prime Minister of the United Kingdom, Theresa May, reaffirmed the resolute commitment of her Government to the Islanders' right to self-determination, on which the Islanders had made clear their firm position in the referendum held in 2013. She congratulated the newly elected Assembly members following the elections held in November 2017 and highlighted the increasing international confidence of the Islanders — a growing, diverse and prosperous community with potential for significant economic development.

43. The United Kingdom rejects claims by Argentina that the United Kingdom is militarizing the South Atlantic. The United Kingdom forces in the South Atlantic are entirely defensive in nature and are at the appropriate level to ensure the defence of the Falkland Islands against any potential threat.

44. The United Kingdom fully supports the legitimate decision of the Falkland Islanders to establish and manage a sustainable fisheries industry and to explore for hydrocarbon resources in waters around the Falkland Islands in full accordance with international law.

45. The United Kingdom is clear about the historical position on the sovereignty of the Falkland Islands. British sovereignty over the Falkland Islands dates back to 1765, some years before the Republic of Argentina existed.

46. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the Government of the United Kingdom and the leaders of the overseas territories indicated that the principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations, applied to the peoples of the overseas territories. They reaffirmed the importance of promoting the right of the peoples of the territories to self-determination, a collective responsibility of all parts of the Government of the United Kingdom. They committed themselves to exploring ways in which the overseas territories could maintain international support in countering hostile sovereignty claims. For those Territories with permanent populations who wished it, the United Kingdom would continue to support their requests for removal from the list of Non-Self-Governing Territories. The Government of the United Kingdom and the leaders of the overseas territories agreed that the fundamental structure of their constitutional relationships had been the right one — powers were devolved to the elected Governments of the territories to the maximum extent possible consistent with the United Kingdom retaining those powers necessary to discharge its sovereign responsibilities. They also agreed upon the need to continue their engagement on those issues to ensure that constitutional arrangements worked and were developed effectively to promote the best interests of the territories and of the United Kingdom.

47. Furthermore, the Government of the United Kingdom supports the statements made by two members of the Legislative Assembly of the Falkland Islands during the hearing of petitioners at the 8th meeting of the Special Committee on the Situation

with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, on 23 June 2017. The speakers stated that: the Falkland Islands had an inclusive and multicultural society; environmental considerations were important throughout the Territory's decision-making process; the Territory, a self-governing overseas territory, received no financial aid from the United Kingdom, made its own laws and regulated its own industrial activities; the presence of British troops on the Islands was minimal and needed only for deterrence; its Constitution provided for the right to self-determination and its realization in conformity with the Charter of the United Nations; the Territory had expressed the clear wish to remain so in a free, open and internationally observed referendum; and that the Special Committee was invited to visit the Falkland Islands to bear witness to the lives and wishes of its people (see A/AC.109/2017/SR.8).

B. Position of the Government of Argentina

48. The Government of Argentina reaffirms its imprescriptible sovereignty rights over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, all of which are an integral part of its national territory. Argentina maintains that, since its independence from Spain, having inherited the latter's territories in the south of the continent, including the Malvinas Islands and the other islands in the South Atlantic, Argentina uninterruptedly exercised its rights by proceeding to enact legislation, establishing legal and administrative bodies to consolidate its sovereignty, promoting the development of trade, settling a population and establishing a local administrative office, which culminated in the issuance of the decree establishing the civic and military commandancy of the Malvinas Islands on 10 January 1829, with Luis Vernet being appointed as Commander.

49. The Government of Argentina emphasizes that, on 3 January 1833, the United Kingdom violated the integrity of the Argentine territory and illegally occupied the Islands, removing by force both the population and the legitimate Argentine authorities that had settled there. Since then, the Islands have been subject to a sovereignty dispute between the two countries, recognized by the United Nations through General Assembly resolution 2065 (XX) and by several regional and multilateral forums.

50. The Government of Argentina underscores that its Constitution establishes the permanent and non-renounceable objective of recovering full exercise of sovereignty over the Malvinas Islands, South Georgia Islands and the South Sandwich Islands and the surrounding maritime areas, in accordance with the principles of international law while being respectful of the way of life of their inhabitants. Argentina affirms that the above-mentioned objective is a State policy and embodies an aspiration of the entire Argentine people (see also A/72/698).

51. In addressing the General Assembly on 20 September 2017, the Vice-President of Argentina, Gabriela Michetti Illia, reiterated her Government's legitimate and inalienable right of sovereignty over the Malvinas Islands, South Georgia Islands and the South Sandwich Islands and the surrounding maritime areas and called upon the United Kingdom to renew bilateral negotiations to find a peaceful permanent solution, in accordance with the resolutions of the General Assembly and the Special Committee. Referring to a new phase in bilateral relations, she hoped for the creation of conditions in which both Governments could sit at the negotiating table with a view to resolving the protracted sovereignty dispute (see A/72/PV.9).

52. Argentina calls for the end of the unilateral activities relating to the exploration and exploitation of renewable and non-renewable natural resources in the area under

dispute, which are contrary to General Assembly resolution 31/49, and for the removal of British military presence in the South Atlantic.

53. In a letter dated 27 October 2017 addressed to the Secretary-General (A/72/599), the Permanent Representative of Argentina to the United Nations transmitted a note from the Deputy Minister for Foreign Affairs concerning the military exercises carried out by the United Kingdom in the Malvinas Islands between 30 October and 3 November 2017. In the note, the Deputy Minister stated that the persistence of the United Kingdom in carrying out military manoeuvres in the South Atlantic was in violation, especially, of General Assembly resolution 31/49, which called upon the two parties to refrain from introducing unilateral modifications in the situation while the negotiating process recommended by the Assembly proceeded.

54. Furthermore, Argentina supports the statements made by Alejandro Betts and Luis Gustavo Vernet during the hearing of petitioners at the 8th meeting of the Special Committee, on 23 June 2017, at which they stated, inter alia, that the dispute did not fit within the standard model, since it did not concern a people fighting to exercise the right to self-determination and to free themselves from the subjugation of a dominant foreign Government; it was a dispute between two States concerning the legitimate title of sovereignty over a territorial extension; sovereignty was central to the question of the Malvinas, which could not be resolved without an international agreement in line with international law; it was to be hoped that the mission of good offices of the Secretary-General and the hard work of the Special Committee would break the current impasse, and the United Kingdom should undertake to resolve the sovereignty dispute through negotiations (see A/AC.109/2017/SR.8).

XI. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

55. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th and 9th meetings, on 23 June 2017.

56. At those meetings, the Special Committee decided to accede to the requests of the delegations of Algeria, Argentina, Bahrain, Bangladesh, Belize, Colombia, Costa Rica, El Salvador, Gabon, the Gambia, Germany, Guatemala, Guinea, Honduras, Lebanon, Mexico, Morocco, Namibia, Paraguay, Peru, Saudi Arabia, Senegal, South Africa, Spain, the United Arab Emirates, Uruguay, Zimbabwe and the African Union to participate in the Committee's consideration of the item.

57. At the 8th meeting, during the hearing of petitioners and in line with the usual practice, the Special Committee heard the statements of Ian Hansen and Michael Summers of the Legislative Assembly of the Falkland Islands (Malvinas), as well as those of Mr. Betts and Mr. Vernet, which are summarized in paragraphs 47 and 54 above (see also A/AC.109/2017/6/SR.8).

58. At the same meeting, the representative of Chile, also on behalf of Bolivia (Plurinational State of), Cuba, Ecuador, Nicaragua and Venezuela (Bolivarian Republic of), introduced draft resolution A/AC.109/2017/L.26, which the Special Committee subsequently adopted without a vote. In the resolution, the Special Committee reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom.

59. Also at the same meeting, statements were made by the representatives of Ecuador (on behalf of the Group of 77 and China), Indonesia, the Syrian Arab Republic, Bolivia (Plurinational State of), Nicaragua, Venezuela (Bolivarian Republic of), Cuba, the Russian Federation, China and Antigua and Barbuda, as well as by the observers of El Salvador (on behalf of the Community of Latin American and Caribbean States (CELAC)), Peru (on behalf of UNASUR), Colombia (also on behalf of the Ibero-American States), Brazil and Guatemala. At the 9th meeting, statements were made by the observers of Paraguay (also on behalf of MERCOSUR), Honduras, Mexico, Uruguay and Costa Rica (see A/AC.109/2017/SR.8 and A/AC.109/2017/SR.9).

60. At the 8th meeting, the Minister for Foreign Affairs and Worship of Argentina, Jorge Marcelo Faurie, also made a statement. He said that the Malvinas Islands had been an integral part of Argentine territory since the nation's creation and reiterated his Government's full willingness to resume negotiations with the United Kingdom as the only way to find a peaceful and definitive solution to the sovereignty dispute. He stated that self-determination did not apply to the inhabitants of the Malvinas Islands, who were not recognized as a people able to exercise that right under the relevant United Nations resolutions, and that decolonization and self-determination were not synonymous. He also stated that, over the previous year, the two Governments had opened a new chapter in their relationship and that, in September 2016, they had issued a joint communiqué expressing their intention to resume a dialogue, which had enabled them to progress in a number of areas of mutual interest. He stated that Argentina wished to maintain a broad agenda with the United Kingdom in order to address all issues and build consensus in different fields, while an open and clear dialogue must be maintained in order to work in an intensive and substantive manner towards resolving the question of the Malvinas Islands, South Georgia Islands and the South Sandwich Islands and the surrounding maritime areas. He expected that, as required by resolution 31/49, the United Kingdom would end its unilateral exploration and exploitation of renewable and non-renewable resources in the disputed area (see A/AC.109/2017/SR.8).

B. Special Political and Decolonization Committee (Fourth Committee)

61. At the 2nd, 6th and 8th meetings, on 2, 6 and 9 October 2017, of the Fourth Committee of the General Assembly at its seventy-second session, during the debate on decolonization items, the delegations of Argentina, Antigua and Barbuda, Bolivia (Plurinational State of), Brazil (also on behalf of MERCOSUR), China, Chile, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, Sierra Leone, the United Kingdom, Uruguay (also on behalf of UNASUR) and Venezuela (Bolivarian Republic of) addressed the question of the Falkland Islands (Malvinas) (see A/C.4/72/SR.2, A/C.4/72/SR.6 and A/C.4/72/SR.9).

62. At the 2nd meeting, on 2 October, the representative of El Salvador, speaking on behalf of CELAC, strongly supported the legitimate rights of Argentine Republic in the sovereignty dispute over the Malvinas Islands, South Georgia Islands and the South Sandwich Islands and the surrounding maritime area, citing the decision taken at the summit of CELAC in 2017, in which it reaffirmed its interest in the resumption of negotiations by the two States and called upon the Secretary-General to renew his efforts to fulfil the mission of good offices, among other things. The representative of Uruguay, speaking on behalf of UNASUR, said that the historical and legal aspects of the question of the Malvinas Islands ruled out any solution based on the principle of self-determination, as had been initially recognized in resolution 2065 (XX), and reiterated the content of its 2016 declaration. Brazil, speaking on behalf of MERCOSUR, referred to the statement of 21 July 2017, in which the support of its

States members for the legitimate rights of the Argentine Republic over the disputed area was reaffirmed and the permanent willingness of Argentina to identify areas for cooperation with the United Kingdom was highlighted, with a view to creating an environment conducive to the resumption of negotiations on sovereignty (see also sect. IX above).

63. At the 8th meeting, on 9 October, the representative of Argentina stated that General Assembly resolution 2065 (XX) had characterized the question of the Malvinas Islands as a special and particular colonial situation and had recognized the existence of a sovereignty dispute over the issue which could be resolved only through negotiations between the Governments of Argentina and the United Kingdom, with due regard for the interests of the inhabitants of the Islands. He stated that the principle of self-determination did not apply to the existing inhabitants of the Malvinas Islands. He further stated that Argentina and the United Kingdom had held substantive negotiations and made compromises and concessions, in which the United Kingdom had agreed to recognize Argentine sovereignty over the Islands, and that unfortunately, those proposals had never been implemented, despite the request by the General Assembly that the Secretary-General should use his good offices to that end. He stated that the bilateral nature of the dispute did not imply that the inhabitants of the islands would be required to change their way of life, referring to the Constitution of Argentina which established the commitment of all Argentines to respect the way of life of the islanders.

64. Referring to the constructive spirit in the bilateral relations since December 2015, including the joint communique issued in September 2016, he concluded by saying that Argentina exhorted the Government of the United Kingdom to cease unilateral acts in the disputed area, in accordance with General Assembly resolution 31/49, and expressed the confidence of Argentina that the new climate in relations with the United Kingdom would be conducive to the negotiation of a solution to the long-standing dispute over sovereignty.

65. At the same meeting, the representative of the United Kingdom stated that the relationship of the Government of the United Kingdom with its overseas territories was a modern one based on partnership, shared values and the right of the people of each Territory to choose to remain British. He said that the relationship brought mutual benefits and responsibilities, that the Territories were an integral part of global Britain and that the United Kingdom maintained a strong commitment to their security and prosperity, as demonstrated by the swift and comprehensive response to the devastation wreaked by Hurricane Irma and ongoing recovery efforts.

66. The representative of the United Kingdom went on to say that the United Kingdom-Overseas Territories Joint Ministerial Council was the primary forum for high-level political dialogue between the United Kingdom and its overseas territories. He stated that, as the United Kingdom negotiated to leave the European Union, it was fully committed to taking into account the priorities of the overseas territories and that the United Kingdom-Overseas Territories Joint Ministerial Council on European Union Negotiations had been created to discuss Territory priorities and agree upon further areas for collective engagement.

67. The representative stated that the United Kingdom had no doubt about its sovereignty over the Falkland Islands and the South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, nor about the principle and the right of the Falkland Islanders to self-determination, as enshrined in the Charter of the United Nations and in the two international Covenants on human rights, by virtue of which they freely determined their political status and freely pursued their economic, social and cultural development. He stated that no dialogue on sovereignty could take place unless the Falkland Islanders so wished.

68. Furthermore, at the same meeting, in exercise of the right of reply, the representative of the United Kingdom said that, in the 2013 referendum, 99.8 per cent of voters had voted against such a dialogue, which had sent a clear message that the people of the Islands did not want a dialogue on sovereignty and that none of the regional statements of diplomatic support for sovereignty negotiations invoked by Argentina modified or diluted the obligation of nations to respect the legally-binding principle of self-determination. She also stated that her Government was clear about both the historical and the legal position regarding sovereignty of the Falkland Islands and stressed that no civilian population had been expelled from the Falkland Islands on 3 January 1833. She stated that the claim to the Islands by the Republic of Argentina, based on the principle of disruption of its territorial integrity, was without foundation, as the Islands had never legitimately been administered by, or formed part of, the sovereign territory of Argentina.

69. Also at the same meeting, speaking in exercise of the right of reply, the representative of Argentina regretted the attempts of the United Kingdom to conceal the act of usurpation it had committed in 1833. He stated that the illegal vote in the Malvinas Islands was a unilateral action undertaken by the United Kingdom that did not resolve the dispute or affect the inalienable rights of Argentina. He further stated that the so-called referendum had been a tautological exercise and could not resolve the sovereignty dispute and that allowing the British inhabitants of the Islands to arbitrate in a sovereignty dispute to which their own country was a party distorted the right to self-determination of peoples (see A/C.4/72/SR.8).

70. In addition, the representatives of Argentina and of the United Kingdom, speaking in exercise of the right of reply, reiterated their Governments' respective positions a number of times during the deliberations of the Fourth Committee (see A/C.4/72/SR.2, 6 and 8).

C. Action taken by the General Assembly

71. In its resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present working paper, no such notification by a Member State to the Assembly had been received.